

# **Prior Written Notice**

As required by

**CODE OF FEDERAL REGULATIONS  
34 CFR §300.503**

**The Arizona Department of Education  
Exceptional Student Services**

**April 2007**

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# Introduction

Exceptional Student Services (ESS), a division of the Arizona Department of Education, strives to promote the development and implementation of quality education for students with disabilities. In line with this responsibility, ESS has developed this Arizona Technical Assistance System (AZ-TAS) document on the topic of prior written notice.

The prior written notice, referred to in this document as the PWN, is a vital component of the procedural safeguards that schools make available to special education students and their parents. Providing a timely and correct PWN is essential to protecting the rights of special education students and their parents.

If completed accurately, the PWN provides a clear record for the student, parent, and school of the decisions that have been made; the basis for those decisions; and the actions that will or will not be taken. This record may be referred to in any number of circumstances, such as subsequent meetings or dispute resolution situations, or as a clarification and reminder to all parties of commitments made. The prior written notice documents any proposals or refusals with regard to special education matters.

The basic components serve as additional reminders of the PWN's importance in informing parents of decisions that have been made. The PWN must provide:

- a description of the school's action(s), proposed or refused
- an explanation of why the school proposes or refuses to act
- a description of other options the school considered and why they were rejected
- a description of evaluations, tests, records, or reports the school used as a basis for the action proposed or refused
- a description of other factors relevant to the school's proposal or refusal
- a statement that procedural safeguards are available to the parents and how to get a description of them
- a statement of whom the parents of a child with a disability may contact to get help in understanding their rights and the rights of their child afforded under the protection of the Individuals with Disabilities Education Act of 2004 (IDEA '04).

The purpose of this document is to give readers information, clarification, guidance, and examples relating to using the PWN. To accomplish this purpose, this AZ-TAS document discusses when and how the PWN must be provided and how the PWN fits into the overall special education process. Finally, the document suggests general tips to aid in writing effective, compliant PWNs.

This AZ-TAS document contains:

- (1) An initial quiz and answers pertaining to the PWN, which readers may use to assess their personal knowledge of the PWN
- (2) The state and federal laws and regulations relative to the PWN
- (3) Guidance as to when PWNs must be provided
- (4) Examples of PWNs written for many common special education situations
- (5) Charts, which show when and how the PWN integrates with the overall special education process
- (6) Helpful tips for writing PWNs

The information in this document is directed to special and general education teachers, administrators, related service providers, parents, and all interested parties who wish to know more about the PWN. Thank you for reading and utilizing our document. We hope you find it helpful.

### Child Find and Identification

- A. Review records
- B. Conduct screening
- C. Conduct and document pre-referral activities
- D. Make referral for evaluation
- E. Provide PWN
- F. Provide PSN

# SPECIAL EDUCATION PROCESS



### 1. Initial Evaluation and Determination of Eligibility

- A. Provide Meeting Notice, if a meeting is held
- B. Review existing data by MET/IEP team members

#### C1. If NO additional data needed

- Determine eligibility
- Develop evaluation report
- Provide PWN\*
- Review parental rights regarding initial evaluation

#### C2. If additional data needed

- Obtain parental consent
- Gather additional data
- Determine eligibility
- Develop evaluation report
- Provide PWN\*

- D. Provide parent evaluation report and eligibility determination

### 2. IEP Development

- A. Provide Meeting Notice
- B. Complete IEP
- C. Determine levels of service and LRE
- D. Provide PWN\*, and copy of IEP

### 3. Initial Placement

- A. Obtain written parental consent
- B. Provide PWN\*

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\* If one PWN is provided for eligibility, IEP, and placement, it must address all actions proposed or refused by the educational agency.

### 4. IEP Implementation in the Least Restrictive Environment

- A. Inform teachers of IEP responsibilities and provide IEP access
- B. Provide services
- C. Prepare progress reports and submit to parents

### 5. Review and Revision of IEP

- A. Provide Meeting Notice and Annual Procedural Safeguards Notice (PSN)
- B. Review/revise IEP
- C. Determine levels of service and LRE
- D. Provide PWN\* and copy of IEP

### 6. Reevaluation and Determination of Eligibility

- A. Provide Meeting Notice as appropriate
- B. Document the Review of Existing Data by MET/IEP team members

#### C1. If NO additional data needed

- Notify parents of the right to request additional data (PSN)
- Document parent agreement that no additional evaluation is needed
- Determine continued eligibility
- Provide PWN\*

#### C2. If additional data needed

- Obtain parental consent
- Gather additional data
- Determine continued eligibility
- Develop reevaluation report
- Provide PWN\*

### 7. Review and Revision of IEP

OR  
Dismiss from Special Education

- A. Provide reevaluation report and eligibility determination
- B. Provide PWN\*

# When Should the Prior Written Notice Be Provided?

## *Eight Times to Provide the Prior Written Notice*

### 34 CFR §300.503

Written notice that meets the requirements under section 300.503 (b) must be given to the parents of a child with a disability a reasonable time before the public agency—

- (i) Proposes to initiate or change identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
- (ii) Refuses to initiate change identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Eight Times a Public Agency Must Provide Section §300.503 Notice	
1. When the public agency <b>proposes</b> to initiate or change <b>identification</b> of a student.	
2. When the public agency <b>proposes</b> to initiate or change the <b>evaluation</b> of a student.	
3. When the public agency <b>proposes</b> to initiate or change the <b>educational placement</b> of a student.	
4. When the public agency <b>proposes</b> to initiate or change the provision of free, appropriate public education ( <b>FAPE</b> ) to a student.	
5. When the public agency <b>refuses</b> to initiate or change <b>identification</b> of a student.	
6. When the public agency <b>refuses</b> to initiate or change the <b>evaluation</b> of a student.	
7. When the public agency <b>refuses</b> to initiate or change the <b>educational placement</b> of a student.	
8. When the public agency <b>refuses</b> to initiate or change the provision of <b>FAPE</b> to a student.	

# **What Content Should the Prior Written Notice Include?**

## ***Seven Items the Prior Written Notice Must Contain***

1. A description of the action proposed or refused by the agency;
2. An explanation of why the agency proposed or refused to take the action;
3. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
4. A statement that the parents of the child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding the provisions of this part;
6. A description of any other options that the IEP Team considered and the reasons why those options were rejected;
7. A description of the other factors relevant to the agency's proposal or refusal.

### **NOTE:**

The notice must be written in language understandable to the general public; and provided in the native language of the parents or other mode of communication used by the parent, unless it is clearly not feasible to do so.

If the native language/mode of communication of the parent is not a written language, steps must be taken to translate the notice orally or by other means to the parent in their native language/mode of communication, ensuring that the parent understands the notice. Written evidence documenting these requirements must be maintained by the public education agency.

## **PROCEDURAL SAFEGUARDS NOTICE**

A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy must also be given to the parents: upon initial referral or parent request for evaluation; upon receipt of the first State complaint and upon receipt of the first due process complaint in a school year; in accordance with the discipline procedures, and upon request by a parent.

## What Circumstances Require a Prior Written Notice?

<b>Events Requiring a Prior Written Notice</b>	<b>YES</b>	<b>NO</b>
<b>Identification</b>		
Screening		<b>X</b>
Teacher Assistance Team (TAT)		<b>X</b>
Intervention strategies		<b>X</b>
Referral for initial evaluation	<b>X</b>	
<b>Evaluation</b>		
Collection of new data for initial evaluation and reevaluation	<b>X</b>	
Evaluation of progress on the annual goals		<b>X</b>
Administration of statewide or schoolwide assessments		<b>X</b>
Independent education evaluation		<b>X</b>
Determination of eligibility upon completion of an initial evaluation or reevaluation	<b>X</b>	
Eligibility issues	<b>X</b>	
Refusal to conduct an evaluation	<b>X</b>	
<b>Educational Placement</b>		
Initial educational placement into special education	<b>X</b>	
Relocation of the special education program		<b>X</b>
Any change in educational placement	<b>X</b>	
Termination of special education and related services	<b>X</b>	
Transfer of student to another school or district		<b>X</b>
Graduation with a regular diploma	<b>X</b>	
Disciplinary removal for more than 10 consecutive school days	<b>X</b>	
Disciplinary removal for not more than 10 school days		<b>X</b>
A series of disciplinary removals that constitute a pattern of removals	<b>X</b>	
Disciplinary removal to an IAES for not more than 45 school days	<b>X</b>	
<b>Provision of FAPE</b>		
Deletion or addition of a related service	<b>X</b>	
Change in annual goals on an existing IEP	<b>X</b>	
Increase or decrease in special education services or related services	<b>X</b>	
Change in how a student will participate in statewide and districtwide assessments	<b>X</b>	
Review and revision of the IEP	<b>X</b>	
Increase or decrease to supplementary aids and services or supports to school personnel	<b>X</b>	
Refusal to increase or decrease a related service	<b>X</b>	
Consideration of ESY if done at a separate meeting	<b>X</b>	



# Identification

## *Special Education Process*

While this step in the special education process is called identification in IDEA, it is more often referred to as the referral for evaluation. Identification occurs when a decision is made to refer a preschool or school-aged student for evaluation who is not currently identified as a “child with a disability under IDEA” but is suspected of having a disability.

The purpose of the PWN at this point is to outline for the parent the decision to refer their child to the multidisciplinary evaluation team (MET) and the reasons for that referral. This PWN is provided to the parent. It serves as a written notice of the school’s proposal or refusal to initiate or make changes **that affect their child**. This proposal or refusal is the decision, *not yet acted upon*, that has been reached before the review of existing data and before the decision is made to collect additional data for possible qualification for special education services. The notice allows the parents time to seek resolution if they disagree with the school’s decisions or to refuse such evaluation.

## Identification/Initial Referral: Scenario #1

The teacher assistance team (TAT) has been working with Jane’s teacher to increase Jane’s academic performance in the general education classroom. There have been a variety of different interventions implemented that have not been effective.

Jane is being referred for an evaluation to determine if she has a disability and the public education agency (PEA) plans to conduct an evaluation.

## *Thinking Questions*

1. Is a notice required for the identification of a child with a possible disability?
2. What is the next step? The full special education evaluation team, including the parent, will meet again and review existing data (from the TAT documentation, current evaluation information, and all other educational records) to determine if any additional data is required to complete the evaluation.

# Identification/Initial Referral: Scenario #1

## PRIOR WRITTEN NOTICE (34 CFR §300.503)

**Student Name:** Jane Doe **Date:** January 2, 2007

**Agency:** PDQ School District **Date PWN Sent/Given to Parents:** 01/02/07

☒ **Proposes to initiate or change** the areas as described below; **AND/OR**

☐ **Refuses to initiate or change** the areas as described below

### **Description of the action proposed or refused by the agency:**

The school is proposing to conduct an evaluation to determine eligibility for special education. The evaluation process starts with a review of information that we already know about Jane. Following this review, the evaluation team may need to collect additional information in order to determine eligibility for special education.

### **Explanation of why the agency proposes or refuses to take this action:**

Our teacher assistance team has been working with you and Jane's teacher to increase Jane's reading ability. In spite of our joint efforts, Jane has not been making adequate progress in acquiring basic reading skills.

### **Description of any options the agency considered and the reasons why those options were rejected:**

We considered waiting until April in order to give Jane more time to catch on; however, we feel that waiting would likely place her further behind.

### **Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

We considered strategies used during the TAT intervention process. Those included such things as specific practice on sound-letter relationships, phonemic awareness, and part-to-whole decoding. The special education evaluation will begin with a review of what we know about Jane's current reading status, learning modes, and general aptitude.

### **Description of any other factors that are relevant to the agency's proposal or refusal:**

Your input will be vital to this discussion and you will be included in the decisions regarding any special education eligibility. Your consent will be required before we conduct additional assessments or place Jane in our special education program.

### **Parents of a child with a disability have protection under the procedural safeguards.**

☒ **A copy of your procedural safeguards is attached to this notice.**

☐ **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Paulette Smith.**

A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy must also be given to the parents: upon initial referral or parent request for evaluation; upon receipt of the first State complaint and upon receipt of the first due process complaint in a school year; in accordance with the discipline procedures; and upon request by a parent.

## Identification/Initial Evaluation: Scenario #2

### Parent Request

#### *Scenario*

As sometimes happens, a parent may wish to move into the evaluation process more quickly than school personnel. In this case, Jack's parents have requested that the school bypass an intervention process and move ahead to do a special education evaluation. Jack's parents have submitted a written request for this evaluation. The agency representatives reviewed Jack's current level of performance with the appropriate personnel. The team determined that a special education evaluation was not warranted.

#### *Thinking Questions*

1. Why did the PEA decide not to evaluate Jack?
2. Is a PWN required? (A notice is required to document the school's refusal to evaluate.)

## Identification/Initial Referral: Scenario #2

### PRIOR WRITTEN NOTICE (34 CFR §300.503)

**Student Name:** Jack Doe **Date:** 10/21/07

**Agency:** PDQ School District **Date PWN Sent/Given to Parents:** 10/21/07

       **Proposes to initiate or change** the areas as described below; **AND/OR**

  X   **Refuses to initiate or change** the areas as described below

**Description of the action proposed or refused by the agency:**

After consideration of the parent's request to refer Jack for a special education evaluation, the team determined that the intervention strategies utilized as a result of the teacher assistance team process appear to be working, and additional evaluation measures are not warranted.

**Explanation of why the agency proposes or refuses to take this action:**

Jack's current classroom performance does not indicate the need for a special education evaluation at this time.

**Description of any options the agency considered and the reasons why those options were rejected:**

The teacher assistance team, which included Jack's teacher, reviewed his present level of performance, his strengths as well as his needs. The team developed several intervention strategies that the classroom teacher has since implemented. Definite improvement and progress was noted and documented. As a result, the team felt that Jack is able to progress at a significant rate when a variety of materials and methods are utilized. Testing for special education does not appear to be necessary at this time.

**Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

A structured phonics program was implemented along with a daily guided reading session.

**Description of any other factors that are relevant to the agency's proposal or refusal:**

Jack's classroom teacher has experience with research-based reading strategies and is able to accommodate Jack's needs within the general classroom.

**Parents of a child with a disability have protection under the procedural safeguards.**

  X   **A copy of your procedural safeguards is attached to this notice.**

       **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Paul Smith.**

# Evaluation

## *Special Education Process*

The first step in the evaluation process is for the Multidisciplinary Evaluation Team (MET) to review existing data. Existing data should include: information provided by the parents of the child; current classroom-based assessments and performance in the general curriculum; formal assessments such as state and PEA-wide assessments (if the student has taken these assessments); teacher and related services provider observations; and pre-referral interventions, including classroom interventions.

This existing data is then summarized and included as part of the evaluation report. On the basis of the review and input from the child's parents, the team must identify what additional data, if any, are needed to determine:

- Whether the child has a particular category of disability;
- The present level of academic achievement and functional performance (PLAAFP) and the educational needs of the child;
- Whether the child needs special education and related services.

The team must outline for the parents its decisions regarding the evaluation process:

- The team must determine if additional data is necessary to determine eligibility.
- If additional evaluation data must be gathered, the team must describe the evaluation plan.
- The team must then obtain parent consent for the collection of new data.

A prior written notice is provided at the time the decisions are made. The evaluation process is used to determine the child's eligibility for special education services; hence, the eligibility determination is an integral and necessary component of the evaluation process. It serves as a written notice of the school's proposal or refusal to carry out an action that affects their child. This school proposal or refusal is a decision that has been reached. The notice allows the parents time to seek resolution if they disagree with the school's decisions.

## Evaluation/Initial: Scenario #3

### **Collecting Additional Data**

#### *Scenario*

The Multidisciplinary Evaluation Team (MET), which includes Jane's parents, has reviewed existing data and determined that more information is needed to identify Jane's present levels of academic achievement and functional performance and eligibility. Additional data will be required to complete the eligibility determination for Jane.

The team has decided that further testing and data collection are necessary to determine if Jane is a student with a disability.

#### *Thinking Questions*

1. Is a PWN required? Why or why not? (A notice is required to document the MET's decision after the review of existing data to collect further data. The team has identified the needed data and parental consent must be obtained.)

## Evaluation/Initial: Scenario #3

### PRIOR WRITTEN NOTICE (34 CFR §300.503)

**Student Name:** Jane Doe **Date:** January 22, 2007

**Agency:** PDQ School District **Date PWN Sent/Given to Parents:** 01/22/07

☒ **Proposes to initiate or change** the areas as described below; **AND/OR**

☐ **Refuses to initiate or change** the areas as described below

#### **Description of the action proposed or refused by the agency:**

The school proposes to administer additional assessments to Jane in order to determine why she is not progressing satisfactorily in learning to read.

#### **Explanation of why the agency proposes or refuses to take this action:**

The evaluation team reviewed existing information about Jane's past reading instruction and performance as provided by her teacher, the school reading specialist, and you (her parents). The team feels it needs additional information before making a decision about special education eligibility and appropriate interventions.

#### **Description of any options the agency considered and the reasons why those options were rejected:**

The team considered using only existing data, but determined that it lacked critical information that could have an impact on the eligibility and intervention decisions.

#### **Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

The following assessments will be administered to Jane by the reading specialist and/or the classroom teacher: Woodcock-Johnson III, Test of Phonemic Awareness, and the Test of Auditory Comprehension of Language-3. The school psychologist will administer a test of general aptitude such as the Wechsler Intelligence Scale for Children (WISC)-III, although another similar test may be used if, in the opinion of the psychologist, it would be more valid for Jane.

#### **Description of any other factors that are relevant to the agency's proposal or refusal:**

You will be asked to complete a parent questionnaire related to Jane's reading habits and competencies at home and in the community.

#### **Parents of a child with a disability have protection under the procedural safeguards.**

☒ **A copy of your procedural safeguards is attached to this notice.**

☐ **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Tom Smith.**

## Evaluation: Eligibility Determination

### *Special Education Process:*

A Multidisciplinary Evaluation Team (MET) must first determine:

1. Whether a child meets the criteria for a particular disability category;
2. If the disability adversely affects the educational performance of the child; and
3. If the student requires special education services.

After the team (which includes the parent) determines eligibility, a PWN must be provided to document the team's eligibility determination, the final step in the evaluation process. The intent of the PWN is to provide parents with written notice of the school's proposal or refusal to carry out an action **that affects their child**.



# **Educational Placement**

## ***Special Education Process***

When a child has been evaluated and found to be eligible for special education, the appropriate educational placement for that child cannot be determined until decisions have been made about the child's needs and the services that the public agency will provide to meet those needs. Thus, the initial IEP must be developed before any placement decision concerning special education can be made.

Stated another way, after determining that a child is eligible for special education, i.e., the child has a disability and needs special education, the child's IEP team must then develop an appropriate IEP to meet the child's educational needs. The public agency must then make the proposal to place the child in special education in order to implement services. The PWN will include the decisions for any proposals and refusals in implementing the proposed IEP and the decision to place the student in special education. At this time, the parent must provide written informed consent for initial placement before any special education services can be delivered. The parent must also be a participant in the development of the IEP.

Subsequently, any time a change of educational placement for that child occurs, a prior written notice must be given to the parents. For example, if a child requires a significant change in placement, such as changing from a resource placement to a self-contained placement, a prior written notice must be given. If a child is graduating with a regular diploma, prior written notice must be given.

The intent of the PWN is to provide parents with written notice of the school's proposal or refusal to carry out an action that affects their child. The school's proposal or refusal is a decision that has been reached but not yet acted upon. The notice allows the parents time to seek resolution if they disagree with the school's decisions.

# Free Appropriate Public Education (FAPE)

## *Special Education Process*

FAPE (Free Appropriate Public Education) is defined as the special education and related services that are provided under public supervision and direction without charge and defined by the standards of the state.

A PWN must summarize the actions proposed or rejected that relate to the provision of FAPE (or the provision of special education services). The prior written notice should also contain the actions and options that were proposed and considered at the meeting, but that were determined not appropriate for the child.

For the initial placement in special education, the IEP team must first determine what constitutes FAPE for the child. Next, the parent must consent to the placement outlined in the student's IEP. The prior written notice provided in this step of the special education process would include the decisions for both proposals and/or refusals in the development of the IEP and the decision to place the student into special education.

One PWN can serve several purposes. It may document an eligibility decision, a FAPE decision, and an initial placement decision if all of the decisions occur within the same meeting. Each of these three actions, proposed or refused, should be outlined on each area of the notice.

The intent of the PWN is to provide parents with notice of an action **that affects their child** that has been decided upon but not yet acted upon. The notice allows the parents to take steps to stop the action before implementation if they have objections to the action(s).

## Evaluation:

### Eligibility Determination, Initial Placement, Development of the IEP, and FAPE: Scenario #4

#### *Scenario*

The IEP team has reviewed existing and new data. Jane's PLAAFP and educational needs have been identified. Eligibility, development of the IEP, and parental consent for placement have been completed at the meeting. The team has determined that Jane is eligible as a "child with a disability."

The IEP team has reviewed the new and existing data to determine:

1. That the student does meet the criteria for specific learning disability; and
2. The team has decided that the disability is adversely impacting Jane's ability to successfully access the general curriculum, thus making her eligible for specialized services. As a result, an IEP has been developed and consent for initial placement has been obtained.

#### *Thinking Questions*

1. Is a prior written notice is required?
2. Can one PWN serve for the proposal for the eligibility decision, the proposal for the provision of FAPE decision, and the proposal for the initial placement decision if they all occur within the same meeting? Must each of these three actions, whether proposed or refused, be outlined in each area of the notice?

**Evaluation: Eligibility Determination, Initial Placement  
Development of the IEP: Scenario #4  
PRIOR WRITTEN NOTICE (34 CFR §300.503)**

**Student Name:** Jane Doe **Date:** February 15, 2007

**Agency:** PDQ School District **Date PWN Sent/Given to Parents:** 02/15/07

☒ **Proposes** to *initiate* or *change* the areas as described below; **AND/OR**

☐ **Refuses** to *initiate* or *change* the areas as described below

**Description of the action proposed or refused by the agency:**

The school proposes to classify Jane as a student with a learning disability in the area of reading. The school also proposes to provide her with specialized instruction in reading in a resource room with other students with disabilities in accordance with her IEP. Informed parental consent for initial placement was collected on this date.

**Explanation of why the agency proposes or refuses to take this action:**

Jane's evaluation results indicate that she is a child with a disability, and it is unlikely that she will progress satisfactorily in reading without highly specialized instruction. While this assistance could be delivered in the general classroom, Jane has told both her teacher and her parents that she is embarrassed to receive special attention in her general education classroom.

**Description of any options the agency considered and the reasons why those options were rejected:**

The team considered not providing special education for reading but felt that her progress would be insufficient to achieve educational success. Jane's sensitivity to being singled out caused the team to reject special education services within her general classroom. The team also considered a full-time special education program for Jane but determined that she does not need assistance in other areas of learning, nor the intensity/restrictiveness of such a program.

**Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

Teacher and reading specialist observations and curriculum based assessments, standardized reading and language assessments, and a test of general intelligence were used to determine that Jane has a learning disability in the area of reading, and to develop the IEP.

**Description of any other factors that are relevant to the agency's proposal or refusal:**

The district will implement the IEP immediately as a result of obtained parental consent for special education placement.

**Parents of a child with a disability have protection under the procedural safeguards.**

☐ **A copy of your procedural safeguards is attached to this notice.**

☒ **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Paulette Smith.**

## FAPE & Annual Review: Scenario #5

### *Scenario*

The IEP team met to annually review and revise Jane's IEP.

### *Thinking Questions*

Is a PWN required to document that Jane will receive the identified IEP services (the services proposed will be implemented)?

## FAPE & Annual Review: Scenario #5

### PRIOR WRITTEN NOTICE 34 CFR §300.503

**Student Name:** Jane Doe **Date:** May 15, 2007

**Agency:** PDQ School District **Date PWN Sent/Given to Parents:** 5/15/07

☒ **Proposes to initiate or change** the areas as described below; **AND/OR**

☐ **Refuses to initiate or change** the areas as described below

**Description of the action proposed or refused by the agency:**

The IEP team reviewed Jane's progress and current program. A new IEP was developed with an update of Jane's PLAAFP and appropriate goals. The team decided to increase her level of service.

**Explanation of why the agency proposes or refuses to take this action:**

Jane didn't achieve the level of progress needed to meet her IEP goals.

**Description of any options the agency considered and the reasons why those options were rejected:**

The IEP team considered maintaining Jane's level of special education resource assistance. Discussion by the team of her current reading level and needs in the general classroom clearly demonstrated the need for increasing the previous IEP's level of support and service time.

**Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

The review of progress, goal achievement, and success in the general classroom indicated that Jane still requires resource pull-out services for reading. The team determined that resource services and speech therapy are still necessary for Jane to make adequate progress.

**Description of any other factors that are relevant to the agency's proposal or refusal:**

The district will implement an additional research-based reading program next year. She will also be provided ESY services for one hour three times a week for reading comprehension, due to the significant and severe regression without recoupment during breaks of more than one week.

**Parents of a child with a disability have protection under the procedural safeguards.**

☐ **A copy of your procedural safeguards is attached to this notice.**

☒ **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Mary Smith.**

## FAPE & Parent Requested Review: Scenario #6

### *Scenario*

Jane's parents have requested that a paraprofessional be assigned to work with Jane the entire school day. Full time paraprofessional service has been considered and rejected. Additional service time with the special education teacher has been considered and increased. The student will continue to receive services from a part-time paraprofessional. The special education teacher will increase instructional time to focus on Jane's organizational skills and to reinforce concepts taught in the regular class. The parental request to increase paraprofessional time has been denied.

### *Thinking Questions*

1. Is a notice required to document the team's rejection of a request for a full-time paraprofessional and the decision to continue with half-time paraprofessional with special education teacher support?
2. May this same PWN document the IEP revision and the continuation of the part-time paraprofessional?

## FAPE & Parent Requested Review: Scenario #6

### PRIOR WRITTEN NOTICE (34 CFR §300.503)

**Student Name:** Jane Doe **Date:** 03/03/07

**Agency:** PDQ School District **Date Prior Written Notice Sent/Given to Parents:** 3/05/07

X **Proposes to initiate or change** the areas as described below; **AND/OR**

X **Refuses to initiate or change** the areas as described below

**Description of the action proposed or refused by the agency:**

Jane's parents have proposed a full-time paraprofessional be provided for Jane in the classroom.

**Explanation of why the agency proposes or refuses to take this action:** The IEP team determined, upon review of Jane's progress, that she is progressing satisfactorily with her current level of services, which includes support from a paraprofessional for a portion of the day during reading, writing, and math instruction in the general classroom. Jane will receive an additional 30 minutes daily from the special education teacher to support her goals of developing organizational skills, reinforcing concepts taught in the general classroom, as well as developing skills of independence.

**Description of any options the agency considered and the reasons why those options were rejected:**

The IEP team reviewed the parent's request for a paraprofessional to be assigned to support Jane throughout her 6-hour school day. After a review of progress of IEP goals, input from Jane's general education teacher, her special education teacher, and related service providers, the team felt additional aide support would create a dependence on this continuous support, lessening her ability to develop independence and the ability to self-monitor. At this time, Jane has been very successful with part-time help from the paraprofessional who supports two other students along with Jane during the core academic times.

**Description of each evaluation procedure, test, record, or report the agency used will use as a basis for the proposed or refused action:**

Teachers' observations and input, grades, anecdotal records, behavioral and progress reports were considered.

**Description of any other factors that are relevant to the agency's proposal or refusal:**

Jane's aide time was decreased last spring when her current IEP was revised and rewritten. Jane's progress in reading has steadily increased during this school year and other academic areas are showing good growth as well.

**Parents of a child with a disability have protection under the procedural safeguards.**

       **A copy of your procedural safeguards is attached to this notice.**

X **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-3453 and asking for Mary Smith.**



# Reevaluation

## *Special Education Process*

When an already identified special education student needs a three-year reevaluation, the PWN for identification is not necessary because the student has already been identified. In other words, a PWN is not required prior to the first step in the reevaluation process, reviewing existing data.

The first step is for the IEP team to review and summarize existing data so that the team can decide if the information is sufficient to determine continued eligibility. This review includes prior evaluations, information provided by the parents of the child, current classroom-based assessments and performance in the general curriculum, formal assessments such as state and PEA-wide assessments, and teacher and related services provider observations.

While it is clear that parents must be given the opportunity to participate in the review of existing data, it is not an action to which they have a right to object. Parents participate and contribute, but they don't have the right to object to the review taking place—only the actions that are proposed as a result of this review.

On the basis of the review and input from the child's parents, the team next identifies what additional data, if any, are needed to determine:

1. Whether the child continues to have a particular category of disability;
2. The PLAAFP and the educational needs of the child;
3. Whether the child continues to need special education and related services; and
4. Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP.

If the MET members determine that no additional data are required, a prior written notice would not be necessary until the eligibility determination is made, possibly at the end of the meeting. This PWN would outline the IEP team's reasons for not collecting additional data, as well as the eligibility decision.

If the team determines that additional assessments are required as part of the child's reevaluation, the team must document this decision and the reasons for this decision, as well as describe the evaluation procedures that will be administered. When additional information is required, a prior written notice must be provided.

The last step is for the team to determine if the child continues to meet the criteria for a disability category. If the child no longer requires special education and related services, based upon an evaluation, the student is dismissed from special education services.

One PWN can serve as documentation when an eligibility decision and FAPE decision (IEP review) occur within the same meeting. Each of these two actions, proposed or refused, should be included in each area of the notice.

## Reevaluation by Parent Request & Obtain

### Additional Data: # Scenario #7

#### *Scenario*

Jane's parents have requested in writing that a reevaluation be completed as soon as possible. They feel her educational needs have changed. Jane's parents have requested a reevaluation before the current evaluation is due to expire. The team has reviewed Jane's progress and records. The PEA refuses to collect additional data at this time. The child will not be reevaluated and additional data will not be collected. The PEA will not honor the parent request for reevaluation.

#### *Thinking Questions*

Is a PWN required to document the PEA's refusal to complete the requested reevaluation?

# Reevaluation by Parent Request & Obtain

## Additional Data: Scenario #7

### PRIOR WRITTEN NOTICE (34 CFR §300.503)

**Student Name:** Jane Doe **Date:** 01/03/07

**Agency:** PDQ Charter School **Date PWN Sent/Given to Parents:** 01/06/07

☐ **Proposes to initiate or change** the areas as described below; **AND/OR**

☒ **Refuses to initiate or change** the areas as described below

**Description of the action proposed or refused relative the agency:**

Jane Doe's parents have requested a reevaluation with the collection of new information. The most current evaluation was completed 15 months prior to this request.

**Explanation of why the agency proposes or refuses to take this action:**

Jane's IEP team reviewed this request and determined that a full comprehensive evaluation was conducted at the beginning of last school year. Jane's strengths and needs are currently the same and the team does not suspect Jane of having any additional areas of disability.

**Description of any options the agency considered and the reasons why those options were rejected:**

The team reviewed the current data on Jane and determined that it was comprehensive and complete. No additional data was felt to be necessary and that this current evaluation data continues to indicate that Jane meets the eligibility criteria for a student with a specific learning disability.

**Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

Progress and report cards, parental input, teachers' input and observations, standardized scores on the Arizona's Instrument to Measure Standards (AIMS), anecdotal reports, portfolio assessments and the current evaluation, completed at the beginning of the last school year.

**Description of any other factors that are relevant to the agency's proposal or refusal:**

It is projected that Jane will achieve all her IEP goals for this current IEP year. Jane's progress in both the resource program and in the general classroom setting continues to be satisfactory.

**Parents of a child with a disability have protection under the procedural safeguards.**

☒ **A copy of your procedural safeguards is attached to this notice.**

☐ **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Bob Smith.**

## 3 Year Reevaluation & Additional Data:

### Scenario #8

#### *Scenario*

Jane's three year or triennial evaluation is due. The IEP team, upon reviewing existing data, has decided that additional assessment is necessary to determine the possible need for occupational therapy as a related service. The team needs more information to determine the need for related services. The team has determined that an occupational therapy evaluation is additional data necessary to complete Jane's three-year reevaluation.

#### *Thinking Questions*

Is a PWN required to document the decision to collect additional data?

(Note: Parent consent is also required prior to collecting new data.)

## 3 Year Reevaluation & Additional Data: Scenario #8

### PRIOR WRITTEN NOTICE (34 CFR §300.503)

**Student Name:** Jane Doe **Date:** October 15, 2007

**Agency:** PDQ Charter School **Date PWN Sent/Given to Parents:** 10/15/07

X **Proposes to initiate or change** the areas as described below; **AND/OR**

       **Refuses to initiate or change** the areas as described below

#### **Description of the action proposed or refused by the agency:**

The IEP team, which included Jane's parents, gathered and reviewed information on Jane and her current performance. The team determined that more information was needed in the area of fine motor skills. This new information will help the team in determining Jane's eligibility for special education, as well as needs, as part of a required three-year reevaluation.

#### **Explanation of why the agency proposes or refuses to take this action:**

Jane is having difficulty printing numbers and letters on paper. As a result, the team felt an occupational therapy evaluation would provide valuable information on fine motor skills.

#### **Description of any options the agency considered and the reasons why those options were rejected:**

The team considered using only existing information but, in light of writing difficulties, felt an evaluation by a certified occupational therapist would best determine if OT services are necessary in determining specific classroom accommodations and any necessary therapy interventions.

#### **Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

Various instruments will be utilized to evaluate Jane's fine motor skills. The occupational therapist will choose the appropriate assessments to assess her needs, and may include the Beery-Buktenica Developmental Test of Visual Motor Integration, the Motor Free Visual Perception Test Developmental Test of Visual Perception, and the Peabody Developmental Motor Scales.

#### **Description of any other factors that are relevant to the agency's proposal or refusal:**

Jane is becoming more frustrated in language arts and math activities that require any type of written response.

#### **Parents of a child with a disability have protection under the procedural safeguards.**

X **A copy of your procedural safeguards is attached to this notice.**

       **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Bob Smith.**

## Reevaluation: Student No Longer Qualifies: Scenario #9

### *Scenario*

The IEP team has determined, from a review of current and existing data, that Jane no longer qualifies as a student with a disability. Jane is no longer eligible for special education. Jane will return to the general education classroom and will no longer receive special education.

### *Thinking Questions*

Is a notice required to document that Jane no longer meets the criteria for an eligibility category and is not in need of specialized instruction because the disability no longer impacts her ability to be successful in the general curriculum?

## Reevaluation: Student No Longer Qualifies: Scenario #9

### PRIOR WRITTEN NOTICE (PWN) (34 CFR §300.503)

**Student Name:** Jane Doe **Date:** November 20, 2007

**Agency:** PDQ Charter School **Date PWN Sent/Given to Parents:** 11/20/07

X **Proposes to initiate or change** the areas as described below, **AND/OR**

       **Refuses to initiate or change** the areas as described below

#### **Description of the action proposed or refused by the agency:**

Jane's determination for continued eligibility as a student with a disability is due by January 26, 2008. The team reviewed all existing data as the first step in the reevaluation process. The team determined that this data was sufficient to re-determine Jane's eligibility. The team, based on this review of existing data, determined that Jane no longer meets the eligibility criteria for specific learning disability in reading and writing.

#### **Explanation of why the agency proposes or refuses to take this action:**

Federal law (IDEA) requires that a reevaluation for the continued determination of eligibility be completed every three years. The team determined that no additional data was necessary to make the determination.

#### **Description of any options the agency considered and the reasons why those options were rejected:**

The IEP Team, based on this review of existing data, also determined that Jane does not qualify for any other disability category.

#### **Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

The team determined that the testing from the prior evaluation done in January 2005 was still current. Achievement data was reviewed from Jane's most recent AIMS scores. The current school year's grades, progress reports, input and feedback from the special education teacher and regular teacher, along with samples of Jane's work in the areas of reading and writing, were reviewed.

#### **Description of any other factors that are relevant to the agency's proposal or refusal:**

Jane has demonstrated marked achievement in the areas of reading and writing. She is fully included in the regular class and has been receiving minimal support from the special education teacher. Her achievement scores and grade reports indicate Jane is now performing at grade level. Both of Jane's teachers feel she is able to maintain progress without special education services.

#### **Parents of a child with a disability have protection under the procedural safeguards.**

X **A copy of your procedural safeguards is attached to this notice.**

       **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: 480 555-2315 and asking for Paul Smith.**

# Discipline

## *Special Education Process*

In the special education process, when a student is removed from his or her designated program as a result of a violation of the student code of conduct, the IDEA provides a specific set of protections. The discipline process clearly outlines and requires a PWN when the school seeks to “change the placement” of a student because of a violation. This change of placement is not like an initial placement. It is rather the removal of the student for *more than ten consecutive school days* or removing him or her for *more than ten cumulative days* in a school year as a result of violations that constitute a pattern of behavior.

It is important to note that students can be removed for violations of a student code of conduct the same way students without disabilities are removed and, when it is not a change in placement, no PWN is required.

The discipline process requires that, within 10 days of any decision to change the placement, the parent and relevant members of the IEP team conduct a manifestation determination to determine:

- 1) if the violation was a manifestation of the disability, i.e., caused by or had a direct relationship to the disability; and
- 2) if the IEP was implemented.

The purpose of the PWN at this point is to outline for the parent the decision of the IEP team with respect to manifestation and IEP implementation. It should further serve to outline the decisions of the team regarding the services, location, and actual change of placement for the child. For instance, if the student was found to have violated the student code of conduct and the team determined that it was NOT a manifestation of the disability, then that would be noted along with the administrative decisions to pursue long term suspension or expulsion and where the child would be served to continue to receive his FAPE. On the other hand, a student who violated the same student code of conduct may have been found by the team to have done so under a manifestation of the disability. If this results in no change of placement or removal, then no PWN is necessary. However, if the IEP team then determines, as a result of the manifestation determination, that the IEP needs to be revised or that behavior supports/interventions need to be added to the IEP, such changes must be made at a properly noticed and constituted IEP meeting, which would then include a PWN for the proposed changes.



# Discipline: Manifestation Determination: Scenario #1

## *Scenario*

John was removed (a three day suspension) early in the school year for posturing and threatening his PE teacher sixth hour on a Monday. After about 6 weeks on his behavior plan, the school had an early release day on Wednesday. John threw a heavy book at the aide assigned to the math class. She had been giving John some direction and had moved on to another student. While the book hit her, it left only a nominal bruise and, before anyone could respond, John was at her side apologizing. The principal, again, suspended him for three days. Two weeks after that, on a Thursday at lunch time, John threw his entire lunch at the janitor, making sure that it hit the ground before it hit her. Because John had made progress containing his anger, no one was touched, and the janitor did not feel threatened, the principal assigned John to in-school suspension for five days. However, while in the in-school suspension, there would be no access to counseling, specialized instruction in reading or writing, and John would not have access to positive role models who were not disabled. Therefore, those 5 days would count as a removal.

Knowing that they would be moving into a change of placement with the implementation of the in-school suspension and because there was a pattern to the aggressive behaviors towards adults, the principal notified the parents and the rest of the IEP team and scheduled the manifestation determination.

The team concluded that the functional behavioral assessment done early in the year was still valid. They also concluded that the resulting behavior intervention plan was appropriate and appropriately implemented, as evidenced by the actual improvements in his behavior. However, they also concluded that the behavior had a direct and substantial relationship to his disability and was a manifestation of his disability. The team then reviewed and revised the current IEP to further address anger management strategies.

## *Thinking Questions*

1. What decisions should be noted in this PWN?
2. What would have happened if the team found that the violation of the student code of conduct was not a manifestation of John's disability?

# Discipline: Manifestation Determination: Scenario #1

## PRIOR WRITTEN NOTICE (PWN) (34 CFR §300.503)

**Student Name:** John Smith **Date:** November 20, 2007

**Agency:** ABC Charter School **Date PWN Sent/Given to Parents:** 11/20/07

X **Proposes to initiate or change** the areas as described below, **AND/OR**

       **Refuses to initiate or change** the areas as described below

### **Description of the action proposed or refused by the agency:**

The IEP team determined that the latest incident of a violation of the student code of conduct is a manifestation of John's disability. Therefore, the district will not continue with the in-school suspension but will implement the revised IEP starting tomorrow.

### **Explanation of why the agency proposes or refuses to take this action:**

It is evident when reviewing the discipline records that the behavior intervention plan has been successful and John himself has noted that he is regularly implementing the strategies that are taught in his counseling group. However, John's disability is defined by his difficulty managing his own behavior.

### **Description of any options the agency considered and the reasons why those options were rejected:**

The IEP team completely reviewed the functional behavioral assessment and determined that the plans developed from that are still effective. They considered other behavioral supports, including a very restrictive program on campus; however, they found that this would not be the least restrictive environment to meet his needs.

### **Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

The IEP team reviewed John's most recent evaluation and the updated clinical notes from John's doctor as supplied by John's parents. Additionally, other school personnel were interviewed about John's relationships with adults and his overall progress in meeting his behavior goals.

### **Description of any other factors that are relevant to the agency's proposal or refusal:**

The IEP team discussed other types of consequences that could be used for a violation of code of conduct that would result in a removal from school, but still communicate to John that there would always be consequences for such behavior. This guide was attached to the behavior plan. Additionally, John and the principal entered into a positive behavioral contract for the next two months, where John can earn ongoing rewards for appropriate behavior directly from the principal.

### **Parents of a child with a disability have protection under the procedural safeguards.**

X **A copy of your procedural safeguards is attached to this notice.**

       **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: 480 555-2315 and asking for Paul Smith.**

# **Preschool**

## **Preschool: Scenario #1**

### ***Scenario***

Three-year-old Dustin has failed the speech/language portion of his preschool screening. The preschool screening team discussed a referral for a special education evaluation with Dustin's parents. They agreed that it would be the next logical next step.

### ***Thinking Questions:***

1. What is the PEA's education obligation to this preschool-aged child?
2. Is a PWN required? Why or why not?

# Preschool: Scenario #1

## **PRIOR WRITTEN NOTICE (PWN) (34 CFR §300.503)**

**Student Name:** Dustin Read **Date:** November 20, 2006  
**Agency:** ABC Charter School **Date PWN Sent/Given to Parents:** 11/20/06

X **Proposes to initiate or change** the areas as described below, **AND/OR**  
       **Refuses to initiate or change** the areas as described below

### **Description of the action proposed or refused by the agency:**

The PEA proposes to begin an initial evaluation of Dustin. The PEA will begin with a Review of Existing Data and ascertain if additional data is needed to determine if he meets the eligibility criteria as a child with a disability, and if he is in need of special education services at the preschool level.

### **Explanation of why the agency proposes or refuses to take this action:**

The PEA proposes this action as Dustin failed the speech/language portion of his preschool screening and, under federal IDEA child find regulations, the PEA must locate, identify, and evaluate children 3-21 years of age to determine eligibility for special education and related services.

### **Description of any options the agency considered and the reasons why those options were rejected:**

The PEA considered re-screening Dustin, but felt that a referral for an initial evaluation would provide a more in-depth view of the child's functional communication skills.

### **Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

The PEA considered the results of Dustin's recent screening in all five developmental domains as well as developmental/medical information from his parents, and determined that additional data should be collected.

### **Description of any other factors that are relevant to the agency's proposal or refusal:**

Dustin's performance and behavioral concerns at his current day care have raised parental concerns that this may be due to more than his communication skills. With the impending birth of a sibling, the parents feel a sense of urgency to "get a handle" on Dustin.

### **Parents of a child with a disability have protection under the procedural safeguards.**

X **A copy of your procedural safeguards is attached to this notice.**  
       **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: 480 555-2315 and asking for Paul Smith.**

## Preschool: Scenario #2

### *Scenario*

The evaluation team, which included Dustin's parents, reviewed the existing data. The team then agreed that more information was needed to determine Dustin's present levels of academic achievement and functional performance and eligibility. The parents provided written consent to perform the evaluation.

### *Thinking Questions:*

3. What type of assessment is required at the preschool level?
4. Is a PWN required? Why or why not?

## Preschool: Scenario #2

### **PRIOR WRITTEN NOTICE (PWN) (34 CFR §300.503)**

**Student Name:** Dustin Read **Date:** December 19, 2006

**Agency:** ABC Charter School **Date PWN Sent/Given to Parents:** 12/19/06

X **Proposes to initiate or change** the areas as described below, **AND/OR**

       **Refuses to initiate or change** the areas as described below

#### **Description of the action proposed or refused by the agency:**

The PEA proposes to assess Dustin in all developmental areas including cognition, communication, motor, adaptive, and social/emotional. The team proposes an observation of Dustin at his current day care facility and an interview with his current teacher.

#### **Explanation of why the agency proposes or refuses to take this action:**

The PEA felt that a battery of tests would provide more in-depth and comprehensive information on Dustin and enable the team to determine eligibility.

#### **Description of any options the agency considered and the reasons why those options were rejected:**

The PEA felt that re-screening Dustin at a later date could possibly produce better scores but considering the information from his private day care as well as the initial screening results, it would be more timely to conduct further assessments.

#### **Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:**

The parents were given a description of the five developmental areas that would be assessed, including the respective tests for each area.

#### **Description of any other factors that are relevant to the agency's proposal or refusal:**

Reports from the day care center relating to frustration and behavioral outbursts were considered.

#### **Parents of a child with a disability have protection under the procedural safeguards.**

X **A copy of your procedural safeguards is attached to this notice.**

       **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: 480 555-2315 and asking for Paul Smith.**

# Test Your Current Knowledge

## *A Prior Written Notice (PWN) Quiz*

1. Under what circumstances must a public agency provide a PWN to parents?
2. Is a PWN required when a public agency conducts screening with all students in a school, grade, or class?
3. Is a PWN required when a public agency makes a referral for a special education evaluation?
4. Is a public agency responsible for sending a PWN before reviewing existing evaluation data?
5. Is a public agency responsible for providing a PWN before collecting additional evaluation data (administering intellectual assessments, achievement tests, personality tests, etc.)?
6. Must a public agency provide a PWN to a parent before conducting an IEP meeting?
7. Is it necessary for a public agency to provide a PWN before implementing the proposed IEP?
8. Does a public agency have to send a PWN to assess a student's progress on annual goals?
9. Does a public agency have to provide a PWN when proposing or refusing to change special education or related services on the IEP?
10. Is a public agency responsible for providing a PWN when proposing or refusing to change annual goals, modifications, or accommodations on an existing IEP?
11. Does a public agency have to provide a PWN to change the educational placement (LRE)?
12. Is a PWN required when a public agency promotes a student from one grade to another grade?
13. Is a public agency responsible for providing a PWN when the special education program is being moved from one location to another?
14. For a student with a disability who graduates or who is no longer a student with a disability, is a public agency responsible for providing a PWN before such termination?
15. Is a PWN required when a public agency removes a student to an interim alternative educational setting (IAES) for not more than 45 calendar days for a weapons or drugs offense?
16. Is a PWN necessary if, after a manifestation determination, no change in IEP or placement occurs?

# **Answers to Test Your Current Knowledge**

## ***How Well Did You Score on the Prior Written Notice Quiz?***

**1. Under what circumstances must a public agency provide a PWN to parents?**

Section 300.503 states that the public agency must give the parents a prior written notice a reasonable time before the public agency proposes to initiate or change, or refuses to initiate or change, identification, evaluation, educational placement, or the provision of a free appropriate public education (FAPE).

**2. Is a PWN required when a public agency conducts screening with all students in a school, grade, or class?**

No. If the screening includes basic tests that are administered to all students, or procedures that are used with all students in a school, grade, or class, then prior written notice is not required.

**3. Is a PWN required when a public agency makes a referral for a special education evaluation?**

Yes. This constitutes identification of the student as a possible child with a disability and requires prior written notice be sent to the parents.

**4. Is a public agency responsible for sending a PWN before gathering existing evaluation data?**

No. The public agency is not required to send prior written notice before gathering existing evaluation data **but** a PWN with a copy of the safeguards would have been provided prior to this review since the PEA had identified the student as a student with a possible disability.

**5. Is a public agency responsible for providing a PWN before collecting additional evaluation data (administering intellectual assessments, achievement tests, personality tests, etc.)?**

Yes. Section 300.503 (a) (1) states that written notice shall be given to the parent a reasonable time before it proposes to initiate or change the evaluation of a student with a disability.

**6. Must a public agency provide a PWN to a parent before conducting an IEP meeting?**

No. Section 300.503 does not require the public agency to provide a prior written notice before the IEP meeting. No proposal exists until the IEP team has made its decisions. However, a meeting notice and procedural safeguards notice must be sent prior to the meeting.



- 7. Is it necessary for a public agency to provide a PWN before implementing the proposed IEP?**

Yes. Section 300.503 (a) (1) states that written notice shall be given to the parent a reasonable time before it proposes or refuses to change the provision of FAPE.

- 8. Does a public agency have to send a PWN to assess a student's progress on annual goals?**

No. It is not necessary to provide prior written notice to assess a student's progress on annual goals. The IEP includes a statement of how the student's progress toward annual goals will be measured, how the child's parents will be informed, and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year.

- 9. Does a public agency have to provide a PWN when proposing or refusing to change special education or related services on the IEP?**

Yes. Refusing to change a statement of special education and related services on an IEP impacts the provision of FAPE. Section 300.503 (a) (1) states that written notice shall be given to the parent a reasonable time before it proposes or refuses to change the provision of FAPE.

- 10. Is a public agency responsible for providing a PWN when proposing or refusing to change annual goals, modifications, or accommodations on an existing IEP?**

Yes. Proposing to change or refusing to change annual goal(s), modifications, or accommodations on an existing IEP impacts the provision of FAPE. Section 300.503 (a) (1) states that written notice shall be given to the parent a reasonable time before it proposes or refuses to change the provision of FAPE.

- 11. Does a public agency have to provide a PWN to change the educational placement (LRE)?**

Yes. Section 300.503 (a) (1) requires that written notice shall be given to the parent a reasonable time before it proposes or refuses to change the educational placement of a child.

- 12. Is a PWN required when a public agency promotes a student from one grade to another grade?**

No. It is not necessary to provide prior written when a student is promoted from one grade to another grade.

- 13. Is a public agency responsible for providing a PWN when the special education program is being moved from one location to another?**

The public agency is **not** required to provide prior written notice to the parents when the special education program is being moved from one school to another or one classroom to

another, if the IEP is not being changed. However, alerting the parents of those students is necessary to make them aware of where their children will be attending school or classes. If the move is from one school to another, it may involve changes in transportation.

**14. For a student with a disability who graduates or who is no longer a student with a disability, is a public agency responsible for providing a PWN before such termination?**

Yes. Graduation or termination of services for any reason constitutes a change in educational placement. Therefore, the public agency must provide a written notice a reasonable time before a student graduates, or before the public agency determines that the student is no longer a student with a disability.

**15. Is a PWN required when a public agency removes a student to an interim alternative educational setting (IAES) for not more than 45 school days for a weapons or drugs offense?**

Yes. Section 300.503 (a) (1) requires that written notice shall be given to the parent(s) a reasonable time before the public agency proposes to initiate a change, or refuses to change, the educational placement. Under §300.520 (a) (2) a public agency may order a change in placement to an appropriate IAES for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 school days for carrying or possessing a weapon at school, on school premises, or to a school function; for knowingly possessing/using or selling/soliciting the sale of a controlled substance while at school, on school premises, or a school function; or for inflicting serious bodily injury upon another person while at school, on school premises, or at a school function.

**16. Is a PWN necessary if, after a manifestation determination, no change in IEP or placement occurs?**

No. A PWN is only needed when proposing to initiate or change placement or FAPE. In this instance, no change is being considered.

**All 16 correct**

Give yourself a standing ovation. You'll be able to handle unforeseen complaints and due process proceedings with ease because you are documenting your decisions with PWNs. Be prepared to impart your knowledge to your friends in the field who are less astute than you.

**12-15 correct**

Give yourself a rousing cheer. You are well prepared for most special education situations. There are possibly a few points you'll want to review so that your prior written notices will cover all the situations that might need a notice.

**9-11 correct**

Give yourself a happy face. You got more than half correct. (We just hope it's the half you need to know before your next IEP meeting.) Find out where your weaknesses lie and read the sections of this document that address areas that are giving you trouble.

**4-9 correct**

Give yourself a reminder. You'll want to schedule time for reading this document thoroughly before your next IEP meeting. Pull out the charts and post them where you might need them.

**3 or fewer correct**

Give yourself a break (a stretch break, that is). You've got a lot to learn and the sooner you get started the better. Get yourself a study buddy and then read the definitions, use the scenarios and example prior written notices to review. Create a few of your own scenarios and write the sample PWNs.

## **Tips for Creating a Compliant Prior Written Notice**

- ☐ Complete all of the items on the prior written notice form. Avoid using phrases and terms such as “N/A,” “not applicable,” or “see above.”
- ☐ Ensure that each item of information on the form is understandable on its own merit. Don’t rely on another form or another piece of information to convey information that the PWN must communicate.
- ☐ When asked to “describe” on the form, provide a comprehensive written account or list the required items.
- ☐ When asked to “explain” on the form, provide an adequate justification or reason(s) for the action.
- ☐ Write the PWN as if you are explaining the items on this notice to a reader who is not conversant with special education or the special education process. Avoid abbreviations, unfamiliar terminology, and educational jargon that may not be understood by all readers, especially when a new student is being evaluated or placed.
- ☐ If the form is completed by the conclusion of a meeting with the parent, review it carefully with the parent.
- ☐ Ensure that the form is translated, if necessary. If the parent has a written language other than English, provide this notice in that language.
- ☐ Be sure the form is dated and the date is correct.
- ☐ Write legibly in handwriting that is large enough and legible enough to be easily read and understood by all readers.
- ☐ Use conventional grammar and correct spelling.
- ☐ Use a writing instrument that produces handwriting that will copy or fax clearly.
- ☐ Remember to provide a copy of the procedural safeguards notice (PSN) to the parent, when required. If the safeguards did not accompany the meeting notice for that particular meeting, provide them at the conclusion of the meeting and document the provision on the prior written notice. If the PSN was sent with the meeting notice, then offer to review the safeguards when you provide prior written notice (PWN) at the conclusion of the meeting and document the review of the PSN on the PWN.

# Sample Prior Written Notice

## PRIOR WRITTEN NOTICE (34 CFR §300.503)

Date Prior Written Notice Sent/Given to Parents: \_\_\_\_\_

Student Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

School Name: \_\_\_\_\_ Primary Language of Home: \_\_\_\_\_

\_\_\_\_ **Proposes** to **initiate** or **change** the areas as described below; **AND/OR**

\_\_\_\_ **Refuses** to **initiate** or **change** the areas as described below

Description of the action proposed or refused relative to

\_\_\_\_ *Identification*

\_\_\_\_ *Provision of Free Appropriate Public Education (FAPE)*

\_\_\_\_ *Evaluation/Re-evaluation*

\_\_\_\_ *Other:*

\_\_\_\_ *Educational placement*

Explanation of why the agency proposes or refuses to take this action: \_\_\_\_\_

Description of any options the agency considered and the reasons why those options were rejected: \_\_\_\_\_

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: \_\_\_\_\_

Description of any other factors that are relevant to the agency's proposal or refusal: \_\_\_\_\_

Parents of a child with a disability have protection under the procedural safeguards.

\_\_\_\_ A copy of your procedural safeguards is attached to this notice.

\_\_\_\_ A copy of a description of your procedural safeguards may be obtained by contacting the agency at \_\_\_\_\_

A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy must also be given to the parents: upon initial referral or parent request for evaluation; upon receipt of the first State complaint and upon receipt of the first due process complaint in a school year; in accordance with the discipline procedures; and upon request by a parent.

If you have questions or need assistance in understanding your procedural safeguards, you may contact the agency providing educational services to your child or contact one of the other agencies listed below:

### Local Public Agency Information

Raising Special Kids  
2400 N. Central Avenue, Suite 200  
Phoenix, AZ 85004  
**602-242-4366 1-800-237-3007**

Arizona Department of Education  
1535 W. Jefferson  
Phoenix, AZ 85007

**602-542-4013; 1-800-352-4558**

Arizona Center for Disability Law  
3839 N. 3<sup>rd</sup> St., Suite 209  
Phoenix, AZ 85012

**Phoenix 1-800-927-2260 Tucson 1-800-992-1447**